

DRAFT

**STATE ADVISORY COUNCIL ON THE
EDUCATION OF CHILDREN WITH DISABILITIES**

**December 14, 2007
Carmel Clay Educational Service Center
Carmel, Indiana**

ADVISORY COUNCIL MEMBERS PRESENT:

B. Marra, G. Bates, R. Burden, C. Endres, K. Farrell, D. Geeslin, J. Hammond, B. Henson, R. Kirby, B. Kirk, G. McAloon, K. Mears, J. Nally, M. Ramos, C. Shearer, D. Schmidt, J. Swaim, J. Swiss, S. Tilden

ADVISORY COUNCIL MEMBERS NOT PRESENT:

D. Downer, J. Hammond, C. H. Hansen, M. Johnson, B. Lewis, T. Wyatt, S. Yoder

INDIANA DEPARTMENT OF EDUCATION STAFF PRESENT:

N. Brahm, N. Confer, S. Knoth, B. Reynolds, K. Bassett, Dee Kempson (DOE), T. Rinehart

VISITORS:

Loui Lord Nelson (R.A.I.S.E.), Pat Pierce (NISEC), Marilyn Edwards (ISTA), Margaret Jones (Parent/Attorney); Pam Wright (Representing ICASE), Dawn McGrath (ICAN/ISTAR), Rylin Rodgers (Parent),

INTERPRETERS

Kellyanne Norrod, Amy Evans

MEETING

D. Schmidt opened the meeting at 8:47 a.m.

D. Geeslin on page 3 second sentence "he felt however that the term system should be changed to language rather than system". G. McAloon seconded. D. Geeslin recommended that the statement of delete section on the deaf school, D. Geeslin moved to remove language about the deaf school. J. Nally seconded. D. Geeslin moved to accept the minutes as amended. J. Nally seconded.

Motion carried.

D. Schmidt discussed the passing of Amy Cook-Lurvey who was a past chair of the State Advisory Council. B. Marra spoke with regard to the impact that she had for the children in special education. See Sharon's notes. When Article 7 has been revised in previous years, after all of the public comments and input, ... B. Marra asked the Council to take a moment of silence to reflect in her memory

Article 7 Revisions Comments from Public

M. Jones, attorney representing families and children, spoke with regard to three definitions 1) Substantial Evidence and pertains to the BSEA and the Indiana Administrative Orders and Procedures Act since Independent Hearing Officers are looking at a preponderance of the evidence whereas the BSEA must look at substantial evidence). N. Brahm asked for clarification as to how M. Jones would suggest the definition to read. 2) Developmental Delay and eligibility classification at age 5 or 9. The children get dropped because they can't get the classification at the age of 5. B. Marra stated that the SAC does not have the authority to make the change. There would have to be a change to the funding formula. (the General Assembly is looking at the property taxes legislative session), and 3) Change of Educational Placement and prior written notice. N. Brahm explained the reasoning for the proposed language. B. Marra confirmed N. Brahm's statements. (See Sharon's notes). K. Farrell asked if you have to change the child's IEP when a change of location (such as a different room) is made. B. Marra said it depends on the frequency of the change. N. Brahm said that the language has been revised to say that the LEA can implement the proposed change if the parent has refused consent or failed to respond.

B. Marra asked that the Council refer to the Consent to IEP Chart. N. Brahm stated that the language referring to consent is at Rule 40 and Rule 42. D. Schmidt suggested adding a dotted line that would say 'failure to respond' and a line that would then go to 'implement the Proposed IEP'. R. Kirby asked for clarification as to if the IEP could be subsequently changed by the school after the school receives initial consent. R. Burden had concern that if the school does not have the consent of the parent then the school should not be able to implement the change of placement. B. Marra discussed the option of adding D. Schmidt's amendment. N. Brahm presented the IDEA '04; 8 Consent Requirements and responded to concerns of the SAC.

P. Wright (ICASE) spoke to the Council regarding parental consent.

Article 7 Revisions

RULE 36 GENERAL ADMINISTRATION OF PROGRAMS

511 IAC 7-36-2 Special education program personnel

B. Marra discussed the revisions to the rule.

R. Kirby moved to accept the proposed language at 511 IAC 7-36-2. Seconded by K. Mears. B. Lewis asked for clarification on whether it would impact the current process used to certify interpreters. G. McAloon asked if there should be language added to clarify what kind of certification.

16 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-36-4 Elementary and secondary instructional day; school calendar; extended school year services

B. Marra explained the proposed revisions to Section 4.

K. Farrell moved to accept the proposed language at 511 IAC 7-36-2 as presented. Seconded by Jane Swiss.

R. Burden asked if it would be possible to make reference to the guidelines that could reference (c)(2). N. Brahm indicated that the electronic version would have a link to the guidelines. K. Farrell indicated that this is an area that will necessitate professional development (perhaps jointly with IN*Source and ASK). K. Farrell questioned (e)(3) as it is quite nebulous as to what constitutes special circumstances. B. Kirk had concerns as to why would we remove the language at (3)(e). J. Swiss asked if using the guidelines creates confusion or helps. B. Marra indicated that the guidelines help but it truly must be a case by case basis. K. Farrell asked if the schools are using the guidelines to assist in the case conference committees.

B. Marra asked if there is an indicator for ESY. K. Bassett said that it is in the Survey that went out to... S. Knoth stated that get her statement.

R. Kirby indicated that with regard to training there needs to be a reference in Article 7 so that parents will know where to find the guidelines. B. Lewis asked if you could include the guidelines when the parent is given their notice of parent rights.

G. McAloon had concerns with striking of (e)(3) if this has led to ESY being out of control. S. Tildon asked how circumstances would change if it is removed or left in.

B. Marra recommended to the Council that when DEL distributes Article it would also give the guidelines.

The question was called. The question was voted on and approved by 10 of the members.

12 Approved; 5 Opposed; 0 Abstained.

Motion defeated.

B. Lewis asked if the fact that even though (4)(e) is being removed but is also in the guidelines, does this change anyone's opinion on how they would vote.

K. Farrell asked how do you measure going beyond an instructional day when you refer to (4)(d). She feels that the guidelines would be followed on a case-by-case basis.

511 IAC 7-36-6 Facilities

R. Burden moved to accept the proposed language at 511 IAC 7-36-6.
Seconded by Greg McAloon.

17 Approved; 0 Opposed; 0 Abstained.

Motion Carried.

RULE 37 PROCEDURAL SAFEGUARDS

511 IAC 7-37-1 Notice of procedural safeguards

N. Brahm said that they changed the language to make it more clear.

R. Kirby asked for clarification on fees for records.

K. Farrell moved to accept the proposed language at 511 IAC 7-37-1. Seconded by Jane Swiss.

17 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-37-2 Notice by electronic mail

B. Marra recommended to leave the language in.

C. Endres moved to accept the proposed language at 511 IAC 7-37-2.
Seconded by D. Geeslin.

16 Approved; 1 Opposed; 0 Abstained.

RULE 40 IDENTIFICATION AND EVALUATION

511 IAC 7-40-2 Integrated and focused system to support student success (DC Conference Input)

B. Marra explained the components that were presented at a recent Rti Summit and whether the language should be in Article 4 or Article 7. He discussed the term 'may' vs. 'must' at Sec. 2(a) and the fact that if you use 'must' that the Title I funding would be cut. B. Marra spoke of the points of interest that were discussed at the Summit. He spoke of the Rti model that the committee is working on. R. Burden who attended the meeting for two days, said that the concept will make a difference in the way that student are served. But it will take awhile to get there.

B. Lewis stated that the problem in the past has not been with Rti in the school but the tool box for the teachers. B. Marra stated that DOE needs to help school access those tools. We are working with ICAN and the SMARTdesktop to provide those tools.

K. Farrell referred to page 6 and asked if there would be definitions for academic domains. T. Rinehart said that the language can be revised. T. Rinehart fielded additional concerns regarding the language. K. Farrell suggested that there needs to be guidelines. Discussion ensued on various concerns of Sec. 2.

J. Swiss moved to accept the proposed language at 511 IAC 7-40-2. Seconded by J. Swaim.

R. Burden expressed concern regarding the uniformity of application of this concept across the state. D. Schmidt asked how Rti relates to request for reevaluation. B. Marra clarified. B. Marra stated that he intends for the Department to provide guidelines for each school corporation (and even each building) to develop a process that fits the unique needs of the special population of students being served. See Sharon's notes.

16 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-40-3 Educational evaluations in general

N. Brahm referred to the revisions to (b)(2). B. Lewis asked how group is defined. S. Tilden suggested to revise to screen students

B. Lewis moved to accept the proposed language at 511 IAC 7-40-3 as amended. Seconded by C. Endres

17 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-40-4 Initial educational evaluations; public agency written notice and parental consent

N. Brahm indicated that the language was just revised for clarification. D. Schmidt suggested that the language should show the same amendments as (3). R. Kirby referred to the site reference. R. Burden suggested at (d) that adding title to the definitions and put into the language. C. Endres would like to add school nurse to the list. K. Farrell stated that if we start considering PTs, OTs, and school nurses as administrators that it may causes more confusion. B. Marra concurred.

R. Burden moved to accept this language with the amendment of specifying in subsection (d) that licensed personnel are that may receive the parent's request for an educational evaluation. Seconded by S. Tilden. See Sharon's notes

17 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-40-5 Conducting an initial educational evaluation

B. Marra referred to the revisions based on comments that were made previously. The discussion point to be considered is what the timeline should be.

K. Farrell stated that she concurs with the language as proposed. B. Kirk would like to cut it back to 45 and 5. R. Kirby said that she thinks that maybe it should go back to the 40 day timeline and feels that the new language withholds services for the child for 5 days in the instance that the parent requests to have the information prior to the conference or to schedule a meeting to discuss the findings prior to the case conference. S. Tilden indicated that he feels that the compromise suggested is appropriate. K. Mears asked if B. Marra still feels that because of Rti that the number of referrals will decrease. B. Marra said yes. K. Mears asked if this should refer to private schools. N. Brahm clarified. J. Swaim asked for clarification on the timeline. K. Farrell asked what the Federal language states. B. Marra said that it gives the state the right to form a timeline but if there is not one in place then it is 60 calendar days.

C. Endres moved to accept the language at 511 IAC 7-36-2 (d) with amendments as it reflect amendments to 50 instructional days for both processes and then accept this language in section (d)(1)(2). Seconded B. Kirk.

K. Mears asked if ICASE had a recommendation. P. Wright indicated that they would recommend keeping the 60 day timeline.

C. Endres called for the vote.

Vote to end debate carried.

11 Approved; 5 Opposed; 0 Abstained.

Motion defeated.

K. Farrell stated that due to lack of full membership of the Council present, she feels this needs to be tabled and brought forth at another time.

K. Farrell moved to accept the originally presented language (with 50 and 55 instructional days). Seconded by D. Geeslin.

8 Approved; 6 Opposed; 0 Abstained.

Motion defeated.

K. Farrell proposed that the Council meet in January to permit a more fully represented discussion of this issue by more of the members of the Council. K. Farrell moved to table this issue to a future meeting. Seconded by S. Tilden. K. Farrell agreed to withdraw her motion. J. Nally moved to accept C. Endres' original motion of amended language with both timelines being set at 50 instruction days. Seconded by G. Bates Motion called and discussion ended with

14 Approved, 0 Opposed; 0 Abstained.

Motion defeated.

511 IAC 7-40-8 Reevaluation

B. Marra discussed the proposed revisions. R. Burden asked if it should be forty-five (45) instructional days. He would like for it to be treated like an initial evaluation. R. Burden suggested to give families the option of having a meeting five (5) days in advance. Discussion ensued as to how the language should be revised. R. Burden moved to accept the

R. Burden moved to accept the proposed language at 511 IAC 7-40-8 with amendments at (d)(1) and (2). Seconded by R. Kirby.

C. Endres asked of K. Farrell if this would make reevaluations easier. K. Farrell stated that she supports the amendments as it keeps the language consistent.

14 Approved; 0 Opposed; 0 Abstained.

RULE 41 ELIGIBILITY CRITERIA

511 IAC 7-41-12 Specific learning disability

T. Rinehart discussed the amended language.

Concern arose to continuum severity. T. Rinehart said that it should be continuum of severity. R. Burden asked for clarification on 'appropriate instruction'. T. Rinehart indicated that it is not defined. K. Mears asked who would determine appropriate instruction. K. Farrell concurred. T. Rinehart indicated that you could make determinations based on the data collected.

K. Farrell moved to accept the proposed language at 511 IAC 7-41-12.
Seconded by G. Bates.

14 Approved; 0 Opposed; 0 Abstained.

RULE 42 DETERMINATION OF SPECIAL EDUCATION SERVICES

511 IAC 7-42-1 Local procedures and training

N. Brahm referenced the revisions to this section.

C. Endres moved to accept the proposed language at 511 IAC 7-36-2.
Seconded by J. Nally

14 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-42-3 Case conference committee participants

B. Marra reviewed the revisions to this section.

J. Swiss moved to accept the proposed language at 511 IAC 7-42-3. Seconded by J. Swaim

13 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-42-4 Written notice before case conference committee meetings

B. Marra reviewed the revisions to this rule.

K. Farrell suggested changes to the title to say, 'Written notice before case conference committee meetings; initial case conference

K. Farrell moved to accept the amended language at 511 IAC 7-7-42-4 in this section. Seconded by J. Swaim.

13 Approved; 0 Opposed; 0 Abstained.

511 IAC 7-42-67 Written notice by the public agency and parental consent

511 IAC 7-42-78 Individualized education programs; implementation

N. Brahm reviewed the revisions to this section.

K. Farrell moved to accept the proposed language at 511 IAC 7-32-7. Seconded by J. Swiss.

11 Approved; 3 Opposed; 0 Abstained.

Motion defeated.

Discussion ensued regarding how the section should be revised.

Council resolved to return to this issue after further discussion during the meeting.

B. Marra presented the issues from the discussions that took place during debate of this issue.

B. Marra suggested two options of 1) setting an additional meeting on January 11, 2008. 2) presenting to the State Board without impass of this section.

S. Tilden indicated that he would like to have an additional meeting in January.

J. Nally stated that he would like to have the reasons for the impass put in writing.

S. Schmidt said that he feels that resolution may not be reached with an additional meeting.

B. Marra suggested that for length, frequency and duration of services being added back into the definition of Change of Placement and the moving forward in 10 days when the parent takes no action are the two issues that are still undecided. See Sharon's notes.

Council m

Loui suggested doodlemailer.

J. Nally motioned to adjourn

Seconded by R. Kirby.

Rule 43 RELATED SERVICES; TRANSITION; TRANSFER OF RIGHTS

511 IAC 7-43-1(j) Related services

K. Farrell moved to accept the proposed language at 511 IAC 7-36-2. Seconded by G. Bates.

14 Approved; 0 Opposed; 0 Abstained.

Motion carried.

511 IAC 7-43-5 Transfer of rights to students

511 IAC 7-43-6 Appointment of an educational representative

J. Swiss moved to accept the proposed language at 511 IAC 7-43-5 and 511 IAC 7-43-6 as presented. Seconded by J. Nally.

13 Approved; 1 Opposed; 0 Abstained.

Motion carried.

Article 7 Revisions Comments from Public

Pat Pierce asked if the rules that were going to be discussed at the next meeting could be put online or e-mailed prior to the meeting.

BUSINESS

B. Kirk requested that a clean copy be sent by U.S. Mail. D. Geeslin concurred.

J. Nally moved to adjourn. C. Endres seconded.

Meeting adjourned at 3:15 p.m.